UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/510,349	02/22/2000	Takashi Kurimoto	034620-049	2612

7590	07/13/2004	

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EXAMINER
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ART UNIT	PAPER NUMBER
2666	21

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _21 June 2004_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-27_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-3,5 and 17_ is/are rejected.

7)☒ Claim(s) _4, 6-16, 18-27_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _15_.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____ .

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claims 3-27 are objected to because of the following informalities: In claims 3-16 and 18-27 line 1, the words "A datagram transfer system" seem to refer back to "A datagram transfer system" recited in claim 2 line 1. If this is true, it is suggested changing "A datagram transfer system" to ---The datagram transfer system---. In claim 17 lines 2 and 9 delete typo "far" and insert ---for---. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the

invention by the applicant for patent or (2) a patent granted on an
application for patent by another filed in the United States before the
invention by the applicant for patent, except that an international
application filed under the treaty defined in section 351(a) shall have the
effects for purposes of this subsection of an application filed in the
United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English
language.

4.   Claims 1-3, 5, and 17 are rejected under 35 U.S.C. 102(e)

as being anticipated by Davies et al. (6,483,805).

Regarding claim 1:

Davies et al. disclose the traffic monitoring equipment

including: a traffic monitoring function for monitoring traffic

information relating to datagrams that have been transmitted by

individual users to a network or the datagrams that have been

received from said network by said individual users during a

specific time interval between a pre-determined earlier point in

time and a current point in time (see col. 5 lines 46-65 which

recite the processor for monitoring the rate of occurrence of

packets indicative of starts and ends of bursts within the

traffic flow and col. 6 line 63 to col. 7 line 3 which recite

means for marking each individual packet used), and storing

monitored results (see col. 4 lines 29-41 which recite storing

the measured current traffic load and col. 8 lines 25-42 which

recite statistical data being stored); a preference value

computation function for evaluating the individual users' usage

of communications, based on the traffic information obtained by

said traffic monitoring function, quantifying the results of

evaluation and converting the results of quantification to a

preference value (see col. 3 lines 49-56 which recite

calculating the numbers of packets received in order to derive a

measure of traffic load); and a preference value insertion

function for inserting said preference value in a header of a

datagram being processed at said current point in time (see col.

7 lines 34-45 which recite marking the packet with a value which

determines the priority or preference on the next path and col.

10 line 58 to col. 11 line 21 which recite the use of the header

field that defines the traffic class and type of service).

Regarding claim 2:

Davies et al. disclose the datagram transfer system for

receiving datagrams sent from individual users' terminals in a

datagram transmission node and forwarding said datagrams to a

destination address specified on a header of said datagrams,

wherein an impact of said datagrams on network operation is

evaluated by a traffic monitoring equipment according to traffic

information on said datagrams (see col. 5 lines 46-65 which

recite the processor for monitoring the rate of occurrence of

packets indicative of starts and ends of bursts within the

traffic flow and col. 6 line 63 to col. 7 line 7 which recite

means for marking each individual packet used), evaluation

results are evaluation results are quantified, and quantified

results are converted and are inserted in said header as a

preference value (see col. 7 lines 34-45 which recite marking

the packet with a value which determines the priority or

preference on the next path and col. 10 line 58 to col. 11 line

21 which recite the use of the header field that defines the

traffic class and type of service).

Regarding claim 17:

Davies et al. disclose the method for performing

prioritized transfer of datagrams transmitted by individual

users far being transferred through a network (see col. 1 lines

14-20) including the steps of evaluating an impact of

transmitting a datagram on network operation for each of the

individual users (see col. 5 lines 46-65 and col. 6 line 63 to

col. 7 line 3); computing a preference value for said datagram

to reflect evaluation result (see col. 3 lines 49-56); inserting

a computed result in a header of said datagram (see col. 7 lines

34-45 and col. 10 line 58 to col. 11 line 21); and performing

prioritized forwarding the datagrams according to the preference

value computed far successive datagrams (see col. 7 lines 34-

45).

Regarding claim 3:

Davies et al. disclose wherein said system includes a
device for performing prioritized forwarding of said datagrams
according to said preference value specified in each header of
said datagrams (see col. 1 lines 14-20).

Regarding claim 5:

Davies et al. disclose wherein said traffic information
includes a length of a datagram or time intervals between
transmissions of successive continual datagrams (see Figs. 3 and
5, col. 10 line 64 to col. 11 line 4, and col. 11 lines 48-53).

Allowable Subject Matter

5.   Claims 4, 6-16, and 18-27 would be allowable if rewritten
to overcome the objections and to include all of the limitations
of the base claim and any intervening claims.

Conclusion

6.   The prior art made of record and not relied upon is
considered pertinent to applicant's disclosure.

Lindsay et al. disclose a communication system with fast control
traffic.

7.   Any response to this nonfinal action should be mailed to:

> Commissioner of Patents and Trademarks
>
> Washington, D.C. 20231

> or faxed to:

> (703) 872-9306, (for Technology Center 2600 only)

> Hand-delivered responses should be brought to Crystal
>
> Park II, 2121 Crystal Drive, Arlington. VA., Sixth
>
> Floor (2600 Receptionist at (703) 305-4750).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick Hom whose telephone number is (703) 305-4742. The examiner's regular work schedule is Monday to Friday from 8:00 am to 5:30 pm EST and out of office on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao, can be reached at (703) 308-5463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

SH

July 7, 2004

DANGTON
PRIMARY EXAMINER